NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

August 12, 2004

Office of the Comptroller of the Currency
250 E St. SW
Public Information Room, Mailstop 1-5
Washington BC 20219
RE: Docker Number 04-17

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Avenue, NW
Washington DC 20551
Docket No. R-1205

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G St. NW
Washington, DC 20552
Attention: No. 2004-28

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC), the nation's economic justice trade association of 600 community organizations, asks you to amend your proposed definitions of assessment area in order to ensure that no inner city areas will be redlined by lending institutions. Your proposal to require lending institutions to delineate assessment areas on the basis of "metropolitan divisions" creates plenty of opportunities for banks to redline and for CRA examiners to enable the redlining.

According to your proposal, the Office of Management and Budget (OMB) has required federal agencies to use the new geographical unit of metropolitan division. OMB has divided large metropolitan statistical areas (MSAs) with more than 2.5 million people into smaller

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metropolitan divisions. The metropolitan divisions are groupings of counties within the larger MSAs.

NCRC disagrees with your proposal's assessment that metropolitan divisions would have "de minimus" or minor impacts in most of the eleven large MSAs in which the OMB creates metropolitan divisions. Your proposal even acknowledges that the impact would be significant in the Detroit MSA in which the city (located in Wayne County) is placed in a metropolitan division that is separated from a second metropolitan division comprised entirely of suburban counties. In addition, NCRC believes that the impact is similar for a number of the MSAs including the Boston MSA in which most of the suburban counties are separated from the city of Boston.

In a number of the MSAs, banks and thrifts can now declare the suburban metropolitan divisions as official assessment areas and declare that the urban counties are not assessment areas. CRA examiners can too easily accept these suburban assessment areas, and neglect to assess banks' performance in reaching low- and moderate-income borrowers and communities in urban areas.

The incentive for banks and CRA examiners to engage in a new form of redlining, using OMB definitions of geographical boundaries, is strengthened by a data reporting issue in HMDA and the CRA small business lending data, In HMDA and CRA data, the median income will now reference the median income for the metropolitan divisions, not the MSA (attached are our comments on the change in HMDA data that you made in the fall of 2003). This will have the effect of converting some suburban middle-income tracts into moderate-income tracts, and will have the effect of turning some urban moderate-income tracts into middle-income tracts. The net effect is that the number of moderate-income tracts will increase in the suburbs, but decrease in the cities. Thus, it will now be easier for banks to reach moderate-income census tracts in the suburbs, but harder to reach moderate-income tracts in the cities. In response to the new OMB definitions, lenders will have strong incentives to exclude the inner cities from their assessment areas.

NCRC conducted data analysis revealing that banks will be able to justify excluding predominantly urban and lower income metropolitan divisions from their assessmenr areas. In the Detroit MSA, the urban metropolitan division of Wayne County accounts for only 32 percent of home (refinance, home purchase, and home improvement) loans made by CRA-covered institutions during 2002 (see Table 1). In terms of absolute numbers, CRA-covered institutions made a considerable number of loans (76,876 loans) in Wayne County. Yet, despite the importance of these lenders in Wayne County, it will be coo easy for the lenders to exclude the metropolitan division of Wayne County. NCRC has observed many CRA exams in which the portion of loans in assessment areas is below the 68 percent of loans made by the banks in the suburban metropolitan division of the Detroit MSA.

The six top CRA-covered lenders in the Detroit MSA made about 40 percent of their loans in Wayne County. The percentage of loans in Wayne County ranged from 26 percent to 65

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percent; the average would have been significantly below 40 percent if the lender with 65 percent was excluded from the analysis. These six lenders were the top lenders in terms of making the most loans in the Detroit MSA than other CRA-covered lenders. If any of them exclude the Wayne County metropolitan division as an assessment area, the reduction in access to credit for low- and moderate-income borrowers in Wayne County will be significant. NCRC believes that they will have considerable incentives to exclude Wayne County. For example, in a 2002 CRA exam done by the FDIC, the examiner states that Republic Bank, one of the top six banks, only has the northeastern part of Wayne County in its present assessment area. It will be too easy for the bank to simply eliminate this sliver of Wayne County for the next exam.

Likewise, Franklin Bank will be motivated to eliminate Wayne County from its multi-county assessment area. According to a 2003 OCC exam, Franklin Bank only has five branches, none of which are located in a low- and moderate-income census tract. The bank will be tempted to exclude Wayne County from its assessment areas since its branch geographical distribution may look more reasonable if its assessment area excludes the City of Detroit, which bas a disproportionate amount of low- and moderate-income census tracts. While the bank made more than half its loans in Wayne County in 2002, it can simply increase its lending in the suburban metropolitan division to justify excluding Wayne County as an assessment area in future exams. Thus, re-defining assessment mas may encourage banks to decrease their lending in urban areas most in need of loans and ofrejnvestment.

The new proposed definition of assessment areas will also threaten a number of other older and poorer urban counties. In the Boston MSA, CRA-covered lenders made only 40 percent of their loans in the metropolitan division containing the City of Boston (Table 2). In the Chicago MSA, CRA-covered lenders made only 5 percent of their loans in the metropolitan division containing Gary, Indiana. Similarly, in the Philadelphia MSA, CRA-covered lenders made only 20.9 percent oftheir loans during 2002 in the metropolitan division containing Camden County. Again, it will be too easy for CRA-covered lenders to exclude the older and poorer metropolitan divisions from their assessment areas. This is an outcome that is exact opposite of CRA's mandate to end redlining by requiring lenders to serve all communities in which they are chartered.

Instead of instructing banks to declare any metropolitan division(s) as assessment area(s), the federal regulatory agencies must continue the present procedure of requiring banks to use MSAs as assessment areas. This is the surest way of ensuring that all communities, including older and poorer urban counties, are served by lending institutions.

At the very least, banks must be instructed to include predominantly urban metropolitan divisions as their assessment areas, CRA examiners must expect and ensure that banks include urban metropolitan.divisions as their assessment areas.

Currently, your proposal instructs CRA examiners to consider Economic and income differences among metropolitan divisions in the performance context of CRA exams. Too much discretion

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is left to examiners; some will chose not to consider lending performance in urban metropolitan divisions in CRA evaluations while others may consider inner city lending. NCRC believes that the new geographical concept of metropolitan divisions will increase the number of abuses connected with defining assessment areas. In the final analysis, CRA's purpose of preventing redlining of low- and moderare-income communities will be thwarted.

The preamble to your proposal also *suggests* that the new definitions of HMDA data enacted by the Federal Reserve Board in 2002 may lead to double counting of HMDA and small business loans. This could occur in the *case* of refinance loans when such loans are refinances of small business loans and are secured by borrowers' dwellings. The federal agencies do not anticipate the double counting to occur often, and state that they will instruct CRA examiners to consider any double counting on CRA exams. NCRC urges the federal agencies to go a step further. The CRA regulations must state that small business loans secured by real estate must not be double counted on CRA exams. A regulatory prohibition against double counting will be more effective in stopping the practice than only guidance to CRA examiners.

Thank you for the opportunity to comment on #is important matter. Please feel free to contact me on (202) 628-8866 if you have any questions.

Sincerely,

John Taylor
President and CEO

TABLE 1: Potential Impact of Using New Metropolitan Division Definitions in Detroit MSA in 2002

Effects on Market Share

Top Lenders	Total # Loans in Detroit-Warren-Livonia MSA	Total # Loans in Warren-Farmington Hills-TtoyMD	% of Loans in Warren-Farmington Hills-Troy MD	Total # Loans in Detroit-Livonia-Dearborn MD	% of Loans in Detroit-Livonia-Dearborn MD
Flagstar Bank	29,592	21,739	73.5%	7,853	26.5%
Charter One Bank	12.416	7.960	64.1%	4,466	35.9%
Republic Bank	7,854	5,196	662%	2.668	33.8%
Comerica Bank	4,194	2,357	56.2%	1,037	43.8%
Standard Federal Bank, N.A.	2.337	1,373	58.8%	984	41.2%
Franklin Bank, N.A	1,614	562	34.8%	1,052	65.2%
Average of Banks Listed Above	9,658	6,5311	58.9%	3,137	41.1%

Effects on All CRA-Covered Lenders

	Total # Loans in Detroit-Warren-Livonia MSA	Total # Loans in Warren-Farmington Hills-Troy MD	% of Loans in Warren-Farmington Hills-Troy MD	Total # Loans in Detroit-Livonia-Dearborn MD	% of Loans in Detroit-Livonia-Dearborn MD
All Lenders	240,239	163,363	68.0%	76,876	32.0%

TABLE 2: Potential Impact of All CRA-Covered Lenders Using New Metropolitan Division Definitions in Boston MSA, Chicago MSA, & Philadelphia MSA in 2002

Boston-Cambridge-Quincy, MA-NH MSA

	Total # Loans in MSA	# in Essex County MD	% in Essex County MD	# in Cambridge-Newton-Framingham MD	% in Cambridge-Newton-Framingham MD	# in Boston-Quincy MD	% in Boston-Quincy MD	# in Rockingham County-Strafford County MD	% in Rockingham County-Strafford County MD
All Lenders	260,311	45,079	17.3%	87,875	33.8%	104,801	40.3%	22,556	8.7%

Chicago-Naperville-Joliet, IL-IN-WI MSA

	Total # Loans in MSA	# in Lake County-Kenosha County MD	% in Lake County-Kenosha County MD	# in Gary MD	% in Gary MD	# in Chicago-Naperville-Joliet MD	% in Chicago-Naperville-Joliet MD
All Lenders	484,230	55,201	11.4%	24,768	5.1%	404,261	83.5%

Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA

	Total # Loans in MSA	# in Wilmington MD	% in Wilmington MD	# in Camden MD	% in Camden MD	# in Philadelphia MD	% in Philadelphia MD
All Lenders	219,257	28,135	12.8%	45,931	20.9%	145,191	66.2%

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Previous NCRC Letter on HMDA Data and Metropolitan Divisions

November 21,2003

Tamara Wiseman
Executive Secretary
Federal Financial Institutions Examination Council
Washington DC, 20006

Dear Ms. Wiseman:

The National Community Reinvestment Coalition (NCRC) asks the FFIEC and the federal banking agencies to reconsider the application of new definitions of metropolitan areas in the Home Mortgage Disclosure Act (HMDA) data. A Federal Reserve Board publication has informed lenders to use new definitions for eleven large metropolitan areas. The new definitions have the potential to distort the HMDA data by re-classifying middle-income census tracts as moderate-income or even low-income census tracts, The end result is that banks would receive favorable consideration under the Community Reinvestment Act (CRA) for making loans in neighborhoods that are middle-income areas instead of the low- and moderate-income areas targeted by the law,

The FFIEC and the federal banking agencies have made this change to metropolitan area definitions without a public comment period. NCRC and its 600 community group members believe that this violates the spirit of the HMDA statute and could possibly violate the requirements under the Administrative Procedures Act for public comment on regulatory changes.

The purpose of the HMDA statute (12 USC Section 2801) "is to provide the citizens and public officials of the United Stares with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment,"

The public policy goals of NMDA are frustrated when regulatory agencies change metropolitan area definitions that distort the data on lending to low- and moderate-income areas. Citizens and public officials cannot meaningfully determine whether lenders are meeting housing needs if the federal agencies change HMDA data without the public's input or knowledge.

Instructions in the Federal Reserve booklet specifying HMDA data requirements for the year 2004 advise banks to use smaller geographical areas instead of the traditional metropolitan areas in their HMDA data submissions for eleven large metropolitan areas. For these metropolitan

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areas, the Office of Management and Budget created subdivisions called "metropolitan divisions." Lenders are now suppose to indicate in the HMDA data that applications and loans came from these metropolitan divisions instead of the previous metropolitan areas.

A significant number of the new metropolitan divisions include only suburban counties and exclude the major city. Per the CRA regulations, federal banking agencies will now classify loans as made to low- and moderate-income residents or census tracts using the median income levels of the metropolitan divisions instead of the larger metropolitan areas. The median income level of many, if not most of the suburban counties, is higher than the median income level of the big cities. Consequently, a number of census tracts in the suburban counties that were classified as middle-income are now likely to be classified as low- or moderate-income.

Some glaring examples of distortions arising from using the new metropolitan division definitions are the following:

- The previous Detroit metropolitan area has been split up into metropolitan divisions including Wayne County in which the City of Detroit is located and another metropolitan division including only suburban counties.
- The Boston metropolitan area has been split into new metropolitan divisions that divorce the City of Boston from suburban counties.
- In the Washington DC metropolitan area, a separate metropolitan division is created by combining two wealthy counties; the affluent Montgomery County, MD and Frederick County, MD in which income levels are rising rapidly,

It is unreasonable that a technical change in metropolitan area definitions has the potential to skew HMDA data and undermine the ability of the public to determine if lenders serve credit needs in low- and moderate-income areas. Given the impact of these changes, the FFIEC must hold a public comment period and conduct a thorough analysis of how income borrower and census tract definitions would change. Even if the FFIEC instructions to lenders are final regarding the use of metropolitan divisions, the FFIEC itself can adjust the HMDA data so the previous metropolitan area definitions are used. The FFIEC can do this by simply adding a field in the HMDA data that includes the metropolitan area as well as the metropolitan division.

Since the FFIEC still has the opportunity to change the final outcome on this matter, NCRC calls on the FFEC and the federal banking agencies to reverse this decision or, at a minimum, immediately hold a public comment period on the impacts of changing metropolitan area definitions on HMDA data and CRA enforcement.

If you have any questions, please contact myself or Josh Silver, Vice President of Research and Policy, on (202) 628-8866. Thank you for your attention to this important matter.

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Sincerely,

John Taylor
President and CEO

cc:

James E. Gilleran, Chairman of the FFIEC and Director
Office of Thrift Supervision

Dennis Dollar, Vice Chairman of the FFIEC and Chairman
National Credit Union Administration

Susan Schmidt Bies
Governor
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